

Exhibit S-53

Page 1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ABDULLAH HAYDAR,

Plaintiff,

-vs-

Case No. 2:16-CV-13662

AMAZON CORPORATE, LLC, a foreign

limited liability corporation;

GARRET GAW, an individual; PETER

FARICY, an individual; and JOEL

MOSBY, an individual,

Defendants.

DEPONENT: ANNE DECLEENE (VIA VIDEO TELECONFERENCE)

DATE: Tuesday, November 14, 2017

TIME: 11:24 a.m.

LOCATION: LITTLER MENDELSON, PC

200 Renaissance Center, Suite 3110

Detroit, Michigan

REPORTER: Karen Fortna, CRR/RMR/RPR/CSR-5067

JOB NO: 5396

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1 APPEARANCES:

2

3 NACHT LAW, PC

4 By: Mr. David A. Nacht

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9 Appearing on behalf of the Plaintiff

10

11 LITTLER MENDELSON, PLC

12 By: Mr. Robert Wolff (VIA VIDEO TELECONFERENCE)

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17 Appearing on behalf of the Defendants

18

19 ALSO PRESENT: Mr. Abdullah Haydar

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I N D E X

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W I T N E S S

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ANNE DECLEENE

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Examination by Mr. Nacht

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1 E X H I B I T S

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3 EXHIBIT DESCRIPTION PAGE

4 Exhibit 1 4-15-15 report, Bates Nos. . . . 5

5 AMAZON_HAYDAR_00000358-375

6 Exhibit 2 4-27-15 addendum, Bates Nos. . . . 5

7 AMAZON_HAYDAR_00000666-675

8 Exhibit 3 3-26-15 interview notes, Bates . . 5

9 Nos. AMAZON_HAYDAR_00000376-380

10 Exhibit 4 4-2-15 interview notes, Bates Nos. 46

11 AMAZON_HAYDAR_00000411-414

12 Exhibit 5 3-31-15 interview notes, Bates . .49

13 Nos. AMAZON_HAYDAR_00000415-419

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Page 5

1 Tuesday, November 14, 2017

2 Detroit, Michigan

3 11:24 a.m.

4 * * * *

5 ANNE DECLEENE,

6 having first been duly sworn, was examined and
7 testified as follows:

8 (Marked for identification:

9 Deposition Exhibit Nos. 1-3.)

10 MR. NACHT: I'm David Nacht. I'm the
11 lawyer who represents Abdullah Haydar. How are
12 you?

13 THE WITNESS: I'm well. Thanks, David.
14 How are you?

15 EXAMINATION

16 BY MR. NACHT:

17 Q. Are you Anne DeCleene?

18 A. I am.

19 Q. And where are you?

20 A. I'm in Denver. Looks like we both went to
21 Starbucks.

22 Q. And are you currently an Amazon employee?

23 A. I am.

24 Q. And where do you work?

25 A. I work -- I currently work for AWS.

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1 Q. Okay. And AWS stands for?

2 A. Amazon Web Services.

3 Q. And who -- are you in human resources in AWS?

4 A. I am.

5 Q. Who do you report to there?

6 A. I report to Colleen Lyons.

7 Q. And who does Ms. Lyons report to?

8 A. Jim Casey.

9 Q. And who does Mr. Casey report to?

10 A. Michele Yetman.

11 Q. And what is Michele Yetman's title?

12 A. Vice president of human resources for AWS.

13 Q. And who does she report to?

14 A. Beth Galetti.

15 Q. And what is her title?

16 A. She's a senior VP of HR for Amazon.

17 Q. And who does she report to?

18 A. She reports to Jeff Bezos.

19 Q. Okay. And how long has -- what's her name again,
20 the woman who reports to Bezos?

21 A. Beth Galetti.

22 Q. How long has Ms. Galetti been in that position?

23 A. In the position she's in right now, I would
24 guess --

25 MR. WOLFF: Don't guess, but if you have

Page 7

1 an educated --

2 MR. NACHT: Estimate.

3 THE WITNESS: A year and a half.

4 BY MR. NACHT:

5 Q. Okay. And was she promoted to that position?

6 A. She was.

7 Q. And who did she follow?

8 A. Are you asking who held the position that she's
9 currently in before her?

10 Q. Yes.

11 A. Tony Galbato held the position before her, but I
12 don't believe he was a senior VP. I believe he was
13 a VP.

14 Q. Okay. Where are you from originally?

15 A. I was born and raised in Indiana.

16 Q. Northern or southern?

17 A. Northern.

18 Q. Close to Notre Dame?

19 A. I was born and raised in Mishawaka.

20 Q. That's close to Notre Dame.

21 A. Very close.

22 Q. And did you go to public high school there?

23 A. I did.

24 Q. And then where did you go?

25 A. And then undergrad I went to St. Mary's College.

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1 Q. You didn't go far from home.

2 A. I did to start, and then I transferred back close
3 to home.

4 Q. Where did you go initially?

5 A. Initially I was at Mount Mary College, which is a
6 small school in Milwaukee.

7 Q. And then you transferred to St. Mary's close to
8 home and you got a degree in what?

9 A. My undergrad degree is in humanistic studies.

10 Q. And what year did you obtain the degree from
11 St. Mary's?

12 A. 2003.

13 Q. What did you do next professionally?

14 A. I went to law school.

15 Q. Where?

16 A. At the University of Wisconsin.

17 Q. Madison?

18 A. Yep.

19 Q. Did you obtain a JD?

20 A. I did.

21 Q. What year?

22 A. 2007.

23 Q. And what did you do during your summers while you
24 were in law school?

25 A. I interned. My first summer, I interned with the

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1 Wisconsin Department of Justice in Madison, and
2 my second summer I interned with the National Gay &
3 Lesbian Task Force in Washington, DC.

4 Q. And what did you do upon graduation?

5 A. Upon graduation, I went to work for the City of
6 Minneapolis in their civil rights department.

7 Q. Did you study for the bar exam?

8 A. I did. Wisconsin, at the time -- this might still
9 be the case -- was one of the few states that still
10 have bar privilege, so I was admitted to the
11 Wisconsin bar and studied and took and passed the
12 Minnesota state bar.

13 Q. In other words, if you graduate from the University
14 of Wisconsin, you're automatically a lawyer in the
15 state of Wisconsin without taking a test?

16 A. So long as you've taken certain courses, got
17 certain grades and passed the character and fitness
18 portion.

19 Q. But you took a bar exam for Minnesota or you waived
20 in?

21 A. I took the bar exam in Minnesota.

22 Q. And are you currently a lawyer?

23 A. No, I have never practiced law.

24 Q. But are you a lawyer in good standing and member of
25 the bar in Wisconsin and Minnesota?

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1 A. I do not pay my annual bar exam fees anymore, no.
2 I don't think I've passed that ten-year where I'm
3 officially kicked out yet, but...

4 MR. WOLFF: But looking forward to it?

5 THE WITNESS: Yes.

6 BY MR. NACHT:

7 Q. And so you did civil rights work for a government
8 agency in Minnesota?

9 A. Right out of law school, that was my first job,
10 working for the Department of Civil Rights for the
11 City of Minneapolis, which is a FEPA, so I was
12 doing EEO investigation work full time.

13 Q. I'm sorry, you used an acronym.

14 A. Fair Employment Practice Agency. So they have a
15 partnership with the EEOC. I was essentially doing
16 Title VII investigations.

17 Q. Okay. And how long did you work for them?

18 A. Just under a year, and then I went and did the same
19 work with the State of Minnesota for their human
20 rights department.

21 Q. How long did you do that?

22 A. Again, just under a year. And then I progressed in
23 the public sector from city to state to feds, so
24 once I left the State of Minnesota, I went to work
25 for the federal government doing investigations,

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1 but not with the EEOC, with the Department of
2 Labor.

3 Q. Which division, Wage & Hour?

4 A. Wage & Hour, yep.

5 Q. Okay. So you did Wage & Hour investigations for
6 how long?

7 A. Three and a half years.

8 Q. All right. And that brings us up to about 2012,
9 2013?

10 A. 2012. At the end of 2012, I joined Amazon.

11 Q. Okay. And how did you hear about that or think
12 about that?

13 A. Meaning how or why did I join Amazon?

14 Q. Yeah. You were working for the US Department of
15 Labor, Wage & Hour Division, and you jumped to a
16 major corporation. Tell me about that process for
17 you.

18 A. I had transferred to the Seattle district office
19 for the Department of Labor over the summer of
20 2012. The government is a really great place to
21 learn, but I found myself getting frustrated and I
22 felt like I had plateaued in my career and was
23 essentially just repeating the same thing over and
24 over again and not growing professionally, so I
25 actually started looking for external opportunities

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1 and saw a job with Amazon's HR compliance team that
2 I applied for and ended up interviewing and being
3 offered the position and taking the position.

4 So when I joined Amazon in November 2012,
5 I was doing wage and hour compliance for the
6 company.

7 Q. So you started doing wage and hour compliance,
8 correct?

9 A. Yes.

10 Q. Is this your first deposition?

11 A. Yes.

12 Q. So I'll take a few minutes to go over the ground
13 rules. I assume that you've heard this before, but
14 I'll remind you, and in case you haven't heard
15 before I'll inform you.

16 It's important that you answer yes or no,
17 not uh-hum, for purposes of the record. It's
18 important that when we get -- after the background
19 and we get into the heart of the deposition -- that
20 you wait a beat before answering so that Mr. Wolff
21 has an opportunity to object to my questions and
22 you're not talking over him and the court reporter
23 can get down what he has to say.

24 Frequently Mr. Wolff will object, but he
25 will not instruct you not to answer. He's just

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1 putting an objection on the record. When that
2 occurs, please do your best to remember the
3 question and not be distracted by what he's saying.
4 He's just making his record and he's not trying to
5 coach you.

6 So if you can stay focused on what the
7 question was, the deposition will go a lot faster
8 because then I won't have to repeat the question to
9 you after his objection because then you can just
10 answer unless he instructs you not to answer.

11 Fair?

12 A. Yes.

13 Q. There are going to be times when I ask you for a
14 yes or no answer. I will provide you with the
15 opportunity, if you wish it, to explain if you
16 don't feel that a yes or no answer fairly
17 characterizes how you feel in response to the
18 question, but I want that yes or no on the record,
19 okay?

20 A. Okay.

21 Q. Anything impairing your memory today?

22 A. No.

23 Q. You seem relaxed and attentive and even curious, as
24 I would expect a law school graduate having her
25 first deposition to be.

1 Any concerns with proceeding?

2 A. No.

3 Q. Okay. So how long did you do wage and hour
4 investigations for Amazon?

5 A. I did not do wage/hour investigations, I did
6 wage/hour compliance.

7 Q. I see. And you were making sure that Amazon paid
8 overtime when it was supposed to pay overtime, that
9 sort of thing?

10 A. An example would be we were rolling out a new
11 timekeeping system for the non-exempt employees
12 across the United States, so it was making sure
13 that that system obviously not only did rudimentary
14 things such as tracking time, but also what can we
15 do as a company to throw flags, put the proper
16 people on management, should people, for example,
17 skip their meal period.

18 Q. How long did you do wage and hour compliance?

19 A. Until the summer of 2014.

20 Q. So a year and a half?

21 A. Yes.

22 Q. And then what?

23 A. And then I moved to a position in retail doing
24 employee relations.

25 Q. Who did you report to there?

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1 A. My first manager when I moved to that role was Kath
2 Critchfield.

3 Q. And who did Ms. Critchfield report to?

4 A. David Haines.

5 Q. And who did Mr. Haines report to?

6 A. Shelly Cerio.

7 Q. And who was your next supervisor after
8 Ms. Critchfield?

9 A. Yeah, Kath left the company and I started reporting
10 to Mark Wenrick.

11 Q. And did Wenrick report to Haines who reported to
12 Cerio?

13 A. Yes.

14 Q. And when did that occur, approximately?

15 A. I don't recall.

16 Q. Give it your best estimate.

17 A. Meaning when did I start reporting to Mark?

18 Q. Yeah. Give me a time -- narrow it to a timeframe.

19 A. Spring, summer 2015.

20 Q. Okay.

21 A. I guess spring 2015.

22 Q. When you did the report concerning Mr. Haydar, the
23 investigation, who was your boss?

24 A. Katherine Mark (ph).

25 Q. Who approached you about doing the investigation?

Page 16

1 A. Shelly.

2 Q. She was your boss' boss' boss, correct?

3 A. Yes.

4 Q. How was it you had a relationship with your boss'
5 boss' boss or did you not have a prior
6 relationship?

7 A. Well, I don't know if I would call it a
8 relationship. I would say that -- so Shelly was
9 the HR lead for Consumer and under Consumer there
10 were multiple business organizations. I was in
11 Retail, which was led by David Haines, but what was
12 unique about my role, as I was the first employee
13 relations hire in Retail, but also all of Consumer,
14 so I was the only person in the org that was
15 devoting my time to workplace investigations. So I
16 would only be speculating on what caused Shelly to
17 reach out to me based on the unique role that I
18 had.

19 Q. Had you met Ms. Cerio prior to this?

20 A. I don't recall.

21 Q. Were you aware of her status in the hierarchy as
22 your boss' boss' boss when she asked you to perform
23 this task?

24 A. Yes.

25 Q. Did she approach you by email or in person or by

Page 17

1 telephone?

2 A. I believe that she contacted me first by email.

3 Q. Were you working in the same building as Ms. Cerio?

4 A. I was not.

5 Q. You were both in Seattle?

6 A. Yes.

7 Q. And did you meet in person to discuss the
8 parameters of the investigation and her
9 expectations?

10 A. We met in person to discuss the investigation.

11 Q. I would like you to tell me from memory everything
12 you can about that meeting. Was it in her office?

13 A. It was in her office.

14 Q. Do you remember what the weather was like that day?

15 A. I do not.

16 Q. You had to go from your building to her building,
17 right?

18 A. Which in the course of Seattle Amazon, I probably
19 did a half a dozen times every day for meetings.

20 Q. Okay. So you went to her office. Do you remember
21 if it was morning or afternoon?

22 A. I do not. I do not remember.

23 Q. Had you seen Shelly Cerio previous to that in
24 person?

25 A. I don't recall.

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1 Q. So it was either the first or second or third time
2 you'd seen her, she was not someone you had spent
3 much time with certainly?

4 A. I would definitely say she's not someone I spent
5 much time, if any, with.

6 Q. Prior to the investigation?

7 A. Yes.

8 Q. Did you report to Ms. Cerio during the course of
9 the investigation?

10 A. I kept Shelly abreast of the investigation
11 progress.

12 Q. Did she give you suggestions about how to complete
13 it in a timely fashion?

14 A. No, she did not.

15 Q. How about people she thought it was important for
16 you to interview or talk to?

17 A. I don't recall whether she said people that may be
18 good or useful to talk to. I --

19 Q. Did she give you any kind of indication -- after
20 the first meeting. We're going to talk about the
21 first meeting, but after the first meeting, did she
22 give you any kind of indication about -- before
23 your final report to her, right, you gave her a
24 final report of your conclusion?

25 A. Yes.

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1 Q. And before that --

2 A. The final report.

3 Q. After the first meeting and before the final
4 report, did you give her any interim feedback about
5 how it was looking?

6 A. I don't recall giving her any interim feedback
7 prior to sending her the final report.

8 Q. You know how with some fair employment agency
9 investigations, after the respondent provides a
10 summary of an account, the complainant is given an
11 opportunity to respond?

12 A. Sure, I am familiar with that.

13 Q. Did you reach a point in this investigation --
14 well, first, do you think that's a good process to
15 do that?

16 MR. WOLFF: In the FEP context?

17 MR. NACHT: Yes.

18 THE WITNESS: Do I think it's a good
19 practice? It sounds like too general of a
20 question for me because -- is it a good practice
21 for an agency? Is it a good practice for an
22 internal company investigation? Could you ask me
23 more specifically?

24 BY MR. NACHT:

25 Q. In your experience doing that -- you did that kind

Page 20

1 of thing yourself, right, when you worked for a
2 government agency, or no?

3 A. When I worked for the government, specifically the
4 city and the state, after we got an answer from the
5 respondent, we would review all of the information
6 and oftentimes send out a request for information;
7 sometimes that may be the complainant, sometimes
8 that may be the respondent. We wouldn't -- am I
9 answering your question?

10 Q. You are indeed.

11 A. Okay.

12 Q. So did you do anything like this with Mr. Haydar
13 after getting some information from some of your
14 interviews, did you come back to Mr. Haydar and
15 say, "Here's what I'm hearing, I have some
16 additional questions," or, "Would you like to
17 comment?" Did you give him that opportunity?

18 A. During the course of an investigation, I do not
19 hesitate to reach out to any party, whether that's
20 a complainant or whether that's accused, or whether
21 that's a witness, to ask additional questions or
22 and/or request additional information.

23 Q. At any point did you get the impression that you
24 were being asked to pursue this investigation by
25 Ms. Cerio because Ms. Cerio had concerns that

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1 possibly protected activity was occurring or
2 unlawful activity was occurring? And when I say
3 protected, I mean within the meaning of Title VII.

4 MR. WOLFF: Objection. Foundation. You
5 can answer.

6 THE WITNESS: I do not recall getting
7 such indication or message from Shelly. I recall
8 the messaging being very limited to the email that
9 Abdullah sent her and raised his concerns.

10 BY MR. NACHT:

11 Q. At any point did you ask Abdullah, "Are you
12 complaining about national origin or religious
13 discrimination?"

14 A. No.

15 Q. Did you ask him -- I used specific words. Did you
16 ask him about whether he was inquiring about or
17 expressing concerns about any activity that's
18 prohibited under Title VII?

19 A. No.

20 Q. Why not?

21 A. Because what I recall about the concerns being
22 raised and the subsequent investigation, Abdullah
23 was very clear in outlining his concerns and the
24 reasons why he felt the way he did.

25 Q. Did it cross your mind that when Abdullah was

Page 22

1 complaining about Peter Faricy making comments
2 about Abdullah's relationship with his wife that
3 Mr. Faricy might have been making a pejorative
4 comment about Mr. Haydar based upon his religious
5 or national origin background?

6 A. No.

7 Q. So it's fair to say that your investigation was
8 not looking at whether Mr. Haydar was a victim of
9 national origin discrimination, correct?

10 A. I would say that was not the foundation or the
11 catalyst of the investigation, but when I proceed
12 through any investigation, I would say that I --
13 there is always a keen ear to whether there may
14 be a policy violation of any kind or type, so I'm
15 confident that the investigation would have
16 proceeded the same.

17 Q. So you acknowledge that the purpose of the
18 investigation was not to investigate national
19 origin discrimination, correct?

20 A. Correct.

21 Q. And the purpose of the investigation was not to
22 investigate religious discrimination, correct?

23 A. Correct.

24 Q. But you believe that the nature of your
25 investigation, the way you conducted it, its

Page 23

1 thoroughness, the people you spoke to and all
2 other issues that go into how you did this
3 investigation, would have uncovered any
4 discrimination based on national origin or
5 religion; is that correct?

6 MR. WOLFF: Do you want to hear that
7 again?

8 MR. NACHT: Or you're not sure?

9 THE WITNESS: Well, I guess I would like
10 to hear that question again.

11 (Whereupon the question was read
12 back by the court reporter.)

13 MR. NACHT: And the answer is, "Yes,"
14 "No," or, "I'm not sure."

15 THE WITNESS: I'm not sure. And I say
16 that because had that been an allegation, there are
17 some different questions I would have asked of
18 witnesses.

19 BY MR. NACHT:

20 Q. What kinds of questions would you have asked?

21 A. Let's say, for example, Abdullah was alleging
22 religious discrimination or discrimination on
23 the basis of religion. I would have asked the
24 interviewee his or her religion, I would have
25 asked if they had ever managed or known to have

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1 managed an employee of Abdullah's religion.

2 With that, I would have asked more
3 detailed questions, so with that being said, have
4 you ever promoted an employee of that religion?
5 Have you ever performance managed an employee of
6 that religion? What was the outcome? As an
7 example.

8 Q. What is a comparator in the context of
9 discrimination law based on your experience?

10 MR. WOLFF: Objection. Seeks a legal
11 conclusion. You can answer.

12 THE WITNESS: I don't understand the
13 question.

14 BY MR. NACHT:

15 Q. What is a comparator?

16 A. So are you -- I still don't understand what you're
17 asking me. So are you asking me if Abdullah was
18 alleging religious discrimination, what is a
19 comparator?

20 Q. I'm not asking about Abdullah, just generally.
21 What's a comparator, in your understanding, based
22 on your understanding as a civil rights
23 investigator?

24 A. You're not using language that I feel comfortable
25 responding. I need a better explanation of what a

Page 25

1 comparator is.

2 Q. Okay. So when you compare a plaintiff or a
3 complainant to other individuals who are in a
4 similar situation, is that something you ever look
5 into when you do investigations? "How is this
6 person treated compared to other people?"

7 A. Yes.

8 Q. Okay. And you've never heard the term "comparator"
9 used to describe the other people?

10 A. That's not --

11 (Video interruption.)

12 (Discussion off the record.)

13 BY MR. NACHT:

14 Q. Okay. So what is the word you use when you think
15 about people who are not the complainant, but in a
16 similar position to the complainant?

17 A. I would use the words similarly situated.

18 Q. Okay. Did you think that Curt Ohrt was similarly
19 situated to Abdullah Haydar when you did your
20 investigation?

21 A. No.

22 Q. Have you reviewed your report in preparation for
23 today?

24 A. Yes.

25 Q. Do you remember in your review of your report that

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1 you mentioned that Peter Faricy treated Curt Ohrt
2 well even though he didn't like him, or words to
3 that effect?

4 A. I remember noting that Curt got a promotion despite
5 tension between him and Peter.

6 Q. And what was your basis for thinking that there was
7 tension between -- between Faricy and Haydar?

8 A. Tension between Faricy and Haydar?

9 Q. I'm sorry, Faricy and Ohrt.

10 A. Multiple witnesses.

11 Q. Okay. What did you hear specifically?

12 A. What's that?

13 Q. What did you hear specifically?

14 A. That Peter and Curt were not necessarily on
15 friendly terms, yet Curt still got a promotion.

16 Q. Okay. And what did that signify to you? Because
17 you included -- because you included it in your
18 report.

19 A. That you don't have to be part of Peter's favorite
20 club, should there even be one, to advance in the
21 organization.

22 Q. Okay. Is Curt Ohrt Muslim?

23 A. I don't know.

24 Q. Is Curt Ohrt of Arab national origin?

25 A. I don't know.

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1 Q. Would you agree that if Mr. Haydar had raised a
2 complaint to you of national origin or religious
3 discrimination, that if, in fact, Mr. Ohrt were not
4 Arab nor Muslim, the fact that Peter promoted him
5 even though he didn't like him would not lead to a
6 finding of an unsubstantiated allegation?

7 MR. WOLFF: Objection. Calls for
8 speculation. Lack of foundation. Incomplete
9 hypothetical. Go ahead. You can answer.

10 THE WITNESS: There are a lot of ifs
11 in that question. If Abdullah had raised
12 different concerns, and accordingly, if a
13 different investigation had been conducted into
14 those different concerns, I don't know what the
15 outcome would have been.

16 BY MR. NACHT:

17 Q. I understand that. But since Ohrt, in this
18 hypothetical, is not Arab nor Muslim --

19 A. I don't know if he -- I don't know Curt's protected
20 class statuses.

21 Q. In my hypothetical he's not, okay?

22 A. Okay.

23 Q. Which, frankly, seems likely if we're living in
24 the real world and not living in pretend
25 deposition, I-only-know-exactly-what-I-know world,

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1 but --

2 MR. WOLFF: Objection.

3 MR. NACHT: -- then what is the meaning
4 of a non-Arab Muslim getting promoted whereas an
5 Arab Muslim doesn't get promoted?

6 MR. WOLFF: Same objection. Foundation.
7 Incomplete hypothetical. Foundation.

8 THE WITNESS: Abdullah did not raise
9 complaints or concerns of national origin and/or
10 religious-based discrimination. Had he done that,
11 a different investigation would have been conducted
12 and I don't know whether Curt would have been
13 similarly situated in anything. I don't know.

14 MR. WOLFF: I must say -- halt for a
15 moment. We have somebody who perhaps can help us
16 here.

17 (Discussion off the record.)

18 MR. NACHT: Hi. Back on.

19 BY MR. NACHT:

20 Q. So you go to Shelly Cerio's office to get
21 directions for an investigation of Mr. Haydar?

22 A. I wouldn't say -- I wouldn't say direction. She
23 gave me the directive to do the investigation, but
24 I do the investigation as I see fit.

25 Q. I understand that it's your understanding that

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1 Mr. Haydar never raised religious or national
2 origin concerns with you or with Ms. Cerio. Are
3 you aware that he's testified that he raised these
4 concerns with Ms. Cerio?

5 MR. WOLFF: So don't share what you and I
6 discussed, but you can share what you know from any
7 non-privileged source. So other than my telling
8 you, did you know that?

9 THE WITNESS: No.

10 BY MR. NACHT:

11 Q. Would you agree that if Mr. Haydar had shared his
12 concerns that he was being discriminated against
13 by Mr. Faricy and people who wanted to please
14 Mr. Faricy on the grounds of religion or national
15 origin to Ms. Cerio prior to Ms. Cerio retaining
16 you to perform this investigation, that Ms. Cerio
17 should have shared that information with you?

18 A. Yes.

19 MR. NACHT: Mr. Wolff, I don't want to
20 draw your objection, but it's my memory that
21 Ms. Cerio testified that it is the job of human
22 resources people to ask questions about whether
23 concerns raised issues that are unlawful under
24 Title VII or -- is that your memory as well,
25 Mr. Wolff?

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1 MR. WOLFF: I'm not sure I share the
2 exact memory, but I'm fine for you using that as a
3 predicate for a question.

4 MR. NACHT: Okay. Thank you.

5 BY MR. NACHT:

6 Q. Whether or not Ms. Cerio said that, is that your
7 view as well?

8 A. Are you asking me whether it's HR's responsibility
9 to ask questions that -- whether someone believes
10 they're being discriminated against?

11 Q. When an HR person has a suspicion or concern that
12 a potential complaint of unfairness may embrace
13 unlawful activity within the meaning of Title VII,
14 is it the job of an HR professional at Amazon to
15 ask questions to determine whether such unlawful
16 activity is occurring?

17 A. Yes.

18 Q. And when you performed this investigation, you were
19 an HR professional at Amazon, correct?

20 A. Yes.

21 Q. And you never asked questions of religion or
22 national origin discrimination, correct?

23 A. Abdullah provided me with --

24 MR. NACHT: I'm sorry, can you just
25 answer that question?

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1 THE WITNESS: What was the question?

2 MR. NACHT: Could you ask the witness the
3 question, please?

4 (Whereupon the question was read
5 back by the court reporter.)

6 THE WITNESS: No.

7 BY MR. NACHT:

8 Q. Of any witness?

9 A. Of any witness in any investigation I've ever done?

10 Q. No, in this investigation. You spoke to a lot of
11 witnesses --

12 A. No.

13 Q. -- but you never asked a single person anything
14 about national origin or religious discrimination
15 in the Haydar investigation, correct?

16 A. I did not, correct.

17 Q. And you personally never suspected that religious
18 discrimination or national origin discrimination
19 was occurring, correct?

20 A. Correct.

21 Q. And if you had, you would have broadened your
22 investigation to include those questions?

23 A. Yes.

24 Q. Would you have had to seek permission from
25 Ms. Cerio to do that or did you believe you had

Page 32

1 the authority to do that on your own once you
2 were commissioned to initiate the investigation?

3 A. I had authority to do a full thorough investigation
4 on my own.

5 Q. And so the investigation could have led into
6 potential unlawful activity under Title VII?

7 MR. WOLFF: Objection.

8 MR. NACHT: What's the objection?

9 MR. WOLFF: You mean she had the scope of
10 authority to have done that? I'm sorry.

11 MR. NACHT: Yes. You withdraw your
12 objection?

13 MR. WOLFF: I withdraw my objection.

14 THE WITNESS: The investigation could
15 have gone in that direction.

16 BY MR. NACHT:

17 Q. How many investigations have you performed since
18 you've been at Amazon?

19 A. A hundred, approximately. I'm estimating. I don't
20 know.

21 Q. This is what you do, huh?

22 A. This is what I do.

23 Q. You're constantly performing investigations?

24 A. Yes.

25 Q. How many times have you substantiated

Page 33

1 discrimination in 2017? Unlawful discrimination
2 or retaliation or harassment in 2017.

3 A. I will add the caveat that I did take two and a
4 half months off this year, and I cannot recall
5 exactly without going back and pulling my records
6 open, but I would say at least a couple.

7 Q. How about 2016?

8 A. I would say at least a couple.

9 Q. The Haydar investigation was performed in the
10 spring of 2015, correct?

11 A. Yes.

12 Q. The first time that you substantiated unlawful
13 discrimination or harassment or retaliation, do you
14 remember that? At Amazon.

15 A. I have an instance that comes to mind, but I cannot
16 say definitively if it was the first one or just
17 the most memorable.

18 Q. Okay. What was the nature of the unlawful conduct?

19 A. It was discrimination on the basis of disability
20 and an accommodation claim.

21 Q. What was the unit in Amazon?

22 A. The unit?

23 Q. Marketplace, AWS?

24 A. Oh.

25 Q. Within Consumer?

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1 A. It was in Consumer, but it was not in Retail.
2 I don't recall which business org, but it wasn't
3 under David Haines, so it wasn't in my predominant
4 group.

5 Q. When is the next time or any other time you can
6 remember finding or substantiating unlawful
7 discrimination, harassment or retaliation?

8 A. Are you asking me for the amount of time that
9 lapsed between the case I'm recalling and the next
10 one?

11 Q. No, I just -- give me -- I mean, it's only happened
12 a couple times a year for the last couple years.
13 These are the only times it's happened, right?

14 A. It probably happens a couple to several times a
15 year where a case of discrimination, harassment,
16 retaliation is substantiated.

17 Q. Okay. Tell me another you can remember.

18 A. Okay. I remember another.

19 Q. Tell me about it.

20 A. There is an instance of an employee complaining
21 that an investigation was conducted and several
22 months thereafter a retaliation claim was brought
23 forward that the manager was essentially trying
24 to manage the employee out due to that previous
25 complaint and retaliation was substantiated.

Page 35

1 Q. What unit?

2 A. AWS.

3 Q. Who was the manager?

4 A. That's confidential.

5 MR. WOLFF: We're not -- I see the
6 relevance of generally exploring whether she ever
7 made such findings at Amazon in her investigations,
8 but we're not going to share the individuals
9 involved.

10 MR. NACHT: What's the --

11 MR. WOLFF: If the judge says we have to,
12 we will.

13 MR. NACHT: What's the basis for the
14 objection, Rob?

15 MR. WOLFF: That these are confidential
16 investigations involving other business units,
17 other people, other times, and the high degree
18 of confidentiality and the importance of that
19 confidentiality being protected outweighs the
20 relevance of the names of the players involved.
21 If we're wrong, we'll supplement.

22 BY MR. NACHT:

23 Q. Ms. DeCleene, have you ever done other
24 investigations within Marketplace besides the
25 Haydar investigation?

Page 36

1 A. I don't recall. I would have to go back and look
2 at the records.

3 Q. Have you done other investigations involving an L7
4 or higher as the complainant?

5 A. Yes, yes.

6 Q. Have you ever substantiated discrimination,
7 harassment or retaliation for an L7 or higher?

8 A. Yes.

9 Q. In what unit?

10 A. The one that I can think of in my head right now is
11 an AWS.

12 Q. What was the nature of the violation? Is this one
13 you've spoken about already?

14 A. No, this was a religious discrimination complaint.

15 Q. What was the religion?

16 A. Messianic Jew.

17 Q. What were the questions you asked in that
18 investigation concerning religious-specific
19 issues?

20 A. I would have to go back and look at that
21 investigation report and those transcripts to
22 answer specifically.

23 Q. Your report acknowledges that Mr. Haydar alleged
24 biased treatment, correct?

25 A. Yes.

Page 37

1 Q. Did you ask Mr. Haydar what kind of bias?

2 A. I'm sure I asked a question along those lines, as I
3 wanted to know why he felt that way, on the basis
4 of what.

5 Q. Well, there's a way to ask the question which
6 elicits examples of treatment and there was another
7 way to ask the question which is seeking motivation
8 or animus behind the bias. Do you acknowledge the
9 distinction?

10 A. Yes.

11 Q. As you sit here today, having reviewed your notes
12 and your records of this investigation, under oath,
13 can you remember specifically asking Mr. Haydar,
14 "What do you believe animated the bias?" or words
15 to that effect?

16 A. I would have to open the interview transcript to
17 look to see what questions that I asked, but I can
18 say confidently that in every investigation that
19 eludes to bias, I want to know the root of where
20 and why they feel that is coming from.

21 Q. Do you have your notes of your interview with
22 Mr. Haydar present?

23 A. If you've provided it as an exhibit.

24 MR. WOLFF: We're looking.

25 MR. NACHT: I don't think we gave it to

Page 38

1 you. I'm going to have Mickey send this to you.

2 MR. WOLFF: Okay.

3 (Discussion off the record.)

4 MR. WOLFF: The document is in front of
5 the witness. This will be Anne DeCleene --

6 MR. NACHT: You ready?

7 MR. WOLFF: Yeah, give her a chance to
8 review it.

9 THE WITNESS: Do you want me to take time
10 to read it?

11 MR. NACHT: I want you to look at
12 Exhibit 3 -- which is Bates stamped 376 through
13 380, correct?

14 THE WITNESS: Correct.

15 BY MR. NACHT:

16 Q. Okay. First, looking at the top of 377, does this
17 document appear and the subject of 376 at the very
18 top -- 376, the front page, very top. Does this
19 document appear to be your notes of your interview
20 with Abdullah Haydar?

21 A. Yes.

22 Q. Okay. I would like you to find for me in this
23 document the closest you can get to you asking
24 Abdullah Haydar a question about what animated his
25 bias or his view of Mr. Faricy's bias. Let me ask

Page 39

1 the question a little more clearly.

2 Please identify for me in Exhibit 3 the
3 closest you can come to you asking a question of
4 Mr. Haydar, "What do you believe animated or was
5 the cause of Mr. Faricy's bias?"

6 MR. WOLFF: Dave, she's writing on the
7 document. Is that okay, Dave?

8 MR. NACHT: Sure. We lost you.

9 (Discussion off the record.)

10 BY MR. NACHT:

11 Q. Have you completed reviewing the document?

12 A. Yes, I have.

13 THE WITNESS: Could you please repeat the
14 question for me?

15 (Whereupon the question was read
16 back by the court reporter.)

17 THE WITNESS: I don't see in my notes
18 here that I asked that question. My questions
19 were very much based on the email or emails that
20 Abdullah had already sent Shelly where there was
21 explanation for why he felt the way he did.

22 BY MR. NACHT:

23 Q. Did you review 360s of Abdullah Haydar?

24 A. I reviewed 360 feedback as part of the
25 investigation.

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1 Q. How do you know?

2 A. How do I know?

3 Q. You've done over 100 investigations. How do you
4 know you did that?

5 A. I would have to check, but I think I even attached
6 the feedback. I'm sure I referred to it in some of
7 the content in the investigation.

8 Q. Well, some 360 feedback is included in OLRs,
9 correct? Performance reviews, comments?

10 A. Are you asking me generally about OLRs? I'm
11 generally not in OLRs.

12 Q. In other words, in 2014, in 2013, there was a lot
13 of 360 feedback that an L7 would receive, correct?

14 A. Are you asking if an L7 would receive a lot of
15 feedback via Evolution, the 360 tool?

16 Q. Yes.

17 A. It depends on the L7.

18 Q. Okay. You did not methodically review all 360 data
19 from that Evolution tool for Mr. Haydar from 2013
20 and 2014, did you?

21 A. I reviewed all Evolution feedback that was
22 available for review.

23 Q. And what was available for review?

24 A. Anything that I have attached as an exhibit is what
25 was available in the system as it expires after --

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1 or expired after a certain period of time.

2 Q. Did you ask Mr. Haydar for -- whether he had
3 records of additional 360 feedback that hadn't
4 expired, but would support his position?

5 A. I do not recall specifically asking him for that
6 potential exhibit; however, I did state multiple
7 times that I wanted to see anything and everything
8 that may be relevant or insightful.

9 Q. Did you tell Mr. Haydar that you would be
10 conducting interviews of many people and reviewing
11 lots of data?

12 A. The general process of an investigation is
13 explained with people. Most investigations
14 include investigatory interviews as well as any
15 other review, should that be documentation, email,
16 video surveillance, whatever would pass an
17 investigation.

18 Q. Mr. Haydar was objecting to his evaluations,
19 correct?

20 A. Abdullah was objecting to his ratings.

21 Q. And the ratings were based upon an assessment of
22 his performance under three different leadership
23 principals, correct?

24 A. His ratings were based on an assessment of a
25 multitude of different things. One of those input

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1 ratings is the leadership principles of which there
2 are 14.

3 Q. Yes. But his particular concern was that he was
4 facing criticism for not being sufficiently vocally
5 self-critical for failing to disagree and commit
6 adequately and failing to earn trust; isn't that
7 so?

8 A. I recall there being a trend of those being the
9 predominant areas of opportunity.

10 Q. Did you look at the number of feedback comments
11 Haydar had received in the 360s on those subjects?

12 A. I read every piece of feedback that was available
13 for review.

14 Q. You never shared with Mr. Haydar that you did not
15 have access to all of his 360s, did you?

16 A. If it came up in conversation how the tool operated
17 and everyone's feedback disappears after a certain
18 period of time, I'm --

19 Q. Excuse me, I'm not asking you to speculate --

20 A. I don't recall. I don't remember.

21 Q. Okay. And you never went back to Haydar with your
22 preliminary assessment of what you were finding
23 based upon interviews and data you looked at,
24 correct?

25 A. No.

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1 Q. And you didn't tell Haydar, "You've said to me in
2 our initial interview that most people have a
3 different view of me than a few people who are
4 slamming me, but I'm not seeing the data that
5 supports your position." You never said anything
6 like that, right?

7 A. Are you referring to the interview notes? If so,
8 can you tell me where to look?

9 Q. No, I'm referring to your process. In your initial
10 interview with him, as you decided what to
11 investigate, he shared with you that he was getting
12 slammed by a relatively small number of people and
13 that most people had a different perception of him,
14 right? Wasn't that his take?

15 A. Yes.

16 Q. And you interviewed the people who slammed him, but
17 you didn't interview all of the people giving him
18 positive feedback that supported his position,
19 right?

20 A. I would want to further explore the word slammed.
21 I don't feel like everyone slammed him. I feel
22 like investigations proceed strategically to come
23 to a finding.

24 Q. Did you interview a single person who reported to
25 Mr. Faricy?

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1 A. I would have to look at the reporting structure at
2 the time.

3 Q. Did you interview a single person that reported to
4 Mr. Haydar?

5 A. I do not recall doing so.

6 Q. Mr. Haydar ran a team in Romania and a team in
7 Detroit, right?

8 A. At some point in time, yes.

9 Q. And to the best of your knowledge, you never
10 interviewed anybody who worked directly for the
11 man, did you?

12 A. No.

13 Q. Your interview reflected that Mr. Joudrey stated
14 that Mr. Joudrey and Mr. Saxena were inclined to
15 give Mr. Haydar a positive review for 2014; do you
16 remember that?

17 A. If that --

18 Q. I'm asking if you remember it.

19 A. I would have to pull up the interview transcript
20 and read that.

21 Q. In Haydar's account, Mr. Faricy is the one who
22 exhibits bias, correct?

23 A. Yes.

24 Q. In Mr. Faricy's account, there is an ORL process
25 which happens according to the normal process and

Page 45

1 Haydar is assessed to be weak on three different
2 leadership principles two years in a row and gets
3 bad reviews. Is that a fair characterization of
4 the Faricy position? Based on your interview.

5 A. I would have to go back and look at the Peter
6 interview. I feel like that question is coming
7 across more involved than I remember him being for
8 an L7 layers below him.

9 Q. Okay. What's your -- how do you remember
10 Mr. Faricy's take on this, that he was more
11 distantly removed and less involved?

12 MR. WOLFF: Do you just want to test her
13 general recollection without the document in front
14 of her?

15 MR. NACHT: Yes.

16 MR. WOLFF: Okay. Go ahead.

17 THE WITNESS: I recall that ultimately
18 the direct manager owns the decision and owned the
19 decision in this case and Peter didn't direct
20 anyone to certain ratings.

21 BY MR. NACHT:

22 Q. Did you have a chance prior to today to look at
23 Mr. Haydar's lawsuit, his complaint?

24 A. I've never seen it.

25 Q. Have you reviewed your interview notes from various

Page 46

1 interview subjects prior to today?

2 A. I've skimmed through interview notes. I wouldn't
3 say I've done so thoroughly.

4 Q. Do you have the Jim Joudrey interview notes there?

5 MR. WOLFF: Did you guys mark them?

6 MR. NACHT: No.

7 MR. WOLFF: If they're not there --

8 THE WITNESS: Here they are.

9 MR. NACHT: They are? Okay.

10 MR. WOLFF: You gave them to us.

11 THE WITNESS: Okay.

12 MR. WOLFF: I figured you would give us
13 Joudrey.

14 BY MR. NACHT:

15 Q. What does Joudrey say, according to your notes, in
16 Exhibit 4, what did Joudrey tell you -- and let's
17 mark Exhibit 4. Is that 411 through 414 Bates
18 stamp?

19 A. Yes.

20 (Marked for identification:
21 Deposition Exhibit No. 4.)

22 BY MR. NACHT:

23 Q. Okay. Take a look at your notes please and tell me
24 what Joudrey says Faricy's role was in Haydar's
25 review.

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1 MR. WOLFF: David, while she's looking,
2 I'm probably wrong, but you know why I think we're
3 losing connection? I think it's happened each time
4 there's no verbal activity. Maybe it automatically
5 shuts off because it thinks the conference is over.

6 MR. NACHT: Well, if that's true, then
7 you can just --

8 MR. WOLFF: We can chat during breaks.

9 MR. NACHT: You can direct the court
10 reporter to go off the record and we can exchange
11 anecdotes.

12 THE WITNESS: Would you like me to read
13 the interview transcript?

14 MR. NACHT: No. I would like you to
15 answer the question, please.

16 Can you please repeat the question for
17 the witness?

18 (Whereupon the question was read
19 back by the court reporter.)

20 THE WITNESS: Regarding Peter's OLR,
21 Joudrey said that he argued for him -- "him" being
22 Abdullah -- not to be least effective.

23 BY MR. NACHT:

24 Q. And does he say anything about Faricy's role?

25 A. Peter -- he says, "Peter pushed and made the

Page 48

1 ultimate calls."

2 Q. And on 4-12 -- I'm sorry. On 412, Section 2(b)(x),
3 what does he say?

4 A. 2(b)(x)?

5 Q. Yes, ma'am. Page 412.

6 A. There are seven points under 2(b)(x). Would you
7 like me to read them all?

8 Q. Start from the top. And what does he say?

9 A. "Then Peter's OLR, he got brought up. Peter is not
10 a fan. He wasn't an LE going into the OLR. Avi
11 and I argued for him in the OLR to not be an LE.
12 If he really is an LE, why move him to Detroit? We
13 had a big discussion. I think he was on the
14 bubble. Peter pushed and made the ultimate call.
15 He referenced meetings he had been in with
16 Abdullah. He doesn't play favorites. Abdullah was
17 not happy" --

18 Q. Stop. Thank you.

19 Now do you have an independent
20 recollection of those notes or not?

21 A. I do not.

22 Q. Okay. Do you have any reason to doubt the accuracy
23 of your notes that you just read?

24 A. I do not.

25 MR. NACHT: Do you have your notes of

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1 your interview with Mr. Faricy present?

2 MR. WOLFF: Something tells me they're
3 here, too. Let's find them.

4 MR. NACHT: Bates stamp 415 to Bates
5 stamp 419. We'll mark that as five.

6 (Marked for identification:
7 Deposition Exhibit No. 5.)

8 BY MR. NACHT:

9 Q. I would like you to read this document to yourself,
10 and I would like you to tell me, where in the
11 document is there anything supporting the position
12 that you remember Mr. Faricy taking from your
13 general recollection that he was somewhat removed
14 from the review? I would like you to find evidence
15 of that in this document, please.

16 A. I think -- first I want to make a clarification
17 about the ratings. So there are -- our input
18 ratings --

19 MR. NACHT: I'm sorry, there's not a
20 question pending. I would like you to answer my
21 question.

22 MR. WOLFF: Could you repeat the
23 question, please?

24 (Whereupon the question was read
25 back by the court reporter.)

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1 THE WITNESS: So Peter talked about how
2 Jim and Joel weighed in on the ratings and came in
3 with Abdullah in the lower right-hand corner.

4 MR. NACHT: Sorry, what page?

5 THE WITNESS: 416. The inputs that were
6 brought into the OLR for Abdullah remained the same
7 throughout and by the end of the OLR.

8 BY MR. NACHT:

9 Q. I'm sorry, are you quoting from this document?

10 A. No, I'm telling you where it says, "Joel Mosby
11 brought his ratings to the OLR. Maybe Jim Joudrey
12 too." In the lower right-hand corner --

13 Q. Page 416, paragraph II, "Gather Facts," No. 2,
14 "Ratings," (a), "Were Abdullah's ratings determined
15 in your OLR?" And then there are a series of Roman
16 numerals. That's what your -- lower case. That's
17 what you're reading from, correct?

18 A. I'm reading Section II, "Gather the Facts," 2(a)(v)
19 as well as 2(a)(vi).

20 Managers come to OLRs with ratings.

21 Ratings aren't finalized until after the OLR, but
22 they come to the table with ratings.

23 Q. Okay. Is there anything else in this document that
24 supports your memory that Faricy was somewhat
25 removed from the ultimate assessment of Mr. Haydar?

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1 A. As part of the OLR process, OLRs happen at multiple
2 levels, so Abdullah would have been discussed at a
3 previous lower-level OLR to which those ratings
4 were brought to the table with Peter's. It was
5 obviously a topic of conversation in the OLR being
6 that he was in the bottom right-hand corner.

7 Q. So in fact, you interviewed Faricy on March 31,
8 2015, correct?

9 A. Yes.

10 Q. And based on your notes, Faricy said, "Well, his
11 managers would have brought in a prospective rating
12 and we'd discuss it," essentially, right?

13 A. Yes.

14 Q. And then a few days later, on April 2, 2015, you
15 interviewed Mr. Joudrey, right?

16 A. Yes.

17 Q. And Mr. Joudrey fleshed out that discussion with
18 the sections we discussed earlier, that he and
19 Mr. Saxena had come into Peter's OLR with a -- not
20 with an LE rating for Mr. Haydar, correct?

21 MR. WOLFF: Objection. Mischaracterizes
22 the evidence.

23 MR. NACHT: How so?

24 MR. WOLFF: Joudrey wasn't the manager at
25 the time of the OLR, it was Joel Mosby who came

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1 into the rating, and he came into the rating with
2 an LD. That's the grounds.

3 MR. NACHT: I'm looking at --

4 MR. WOLFF: Manager between September and
5 December of the prior year.

6 MR. NACHT: I'm looking at page 412 in
7 the Joudrey. Do you have Joudrey in front of you?

8 THE WITNESS: Yes.

9 BY MR. NACHT:

10 Q. Okay. Page 412, No. 2, subparagraph (b) (x) (1).
11 What does it say?

12 A. "He wasn't an LE going into the OLR."

13 Q. Keep going.

14 A. "Avi and I argued hard for him in the OLR to not be
15 an LE."

16 Q. Okay. And then if we skip down to (6), what does
17 it say?

18 A. "Peter pushed, made the ultimate call."

19 Q. Okay. Based upon your interviews in the Exhibit 4
20 and Exhibit 5, did you come to an opinion as to
21 whether Peter Faricy was a decision-maker in Haydar
22 getting the LE ratings in 2014?

23 A. Peter influenced the output, but not the input.

24 Q. Why don't you give me a yes or no to this question
25 and then I'll let you explain.

1 A. Peter influenced the LE.

2 Q. Now this was an investigation where Mr. Haydar was
3 arguing that Mr. Faricy exhibited bias towards
4 Mr. Haydar, correct?

5 A. My recollection is the OLR occurred well before
6 this investigation was initiated.

7 Q. Yes. The purpose of your investigation was to
8 review, in part, this determination that Haydar got
9 an LE, right? That Haydar was complaining about
10 that, correct?

11 A. Okay. Yes.

12 Q. And so in looking at the process by which Haydar
13 ended up with an LE, you interviewed Joudrey and
14 Faricy, among others, right?

15 A. Yes.

16 Q. And in conducting those interviews, you determined
17 Faricy pushed to end up with Haydar getting an LE
18 rating in 2014, correct?

19 A. That was Jim's recollection.

20 Q. Right. Did you conclude that there was some reason
21 why that was not accurate?

22 A. No.

23 Q. There's nothing in your investigation that
24 contradicted that, right?

25 A. I would guess that if you -- if we were to --

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1 Q. I don't want you to guess. I don't want you to
2 guess.

3 As you sit here today, based on your
4 recollection, there's nothing in your investigation
5 that contradicted Mr. Joudrey's account of
6 Mr. Faricy's role, right?

7 A. I would have to look at the interview transcripts
8 more closely. I don't know if people recalled it
9 the same way as Jim did it as Peter pushing.

10 Q. Okay. I would like to direct your attention to
11 Exhibit 1. And is that dated April 15, 2015?

12 A. Yes.

13 Q. And is it, "Summary of Investigation RE: Abdullah
14 Haydar"?

15 A. Yes.

16 Q. And the first big heading is "Reason for
17 Investigation"?

18 A. Yes.

19 Q. And it begins on page Bates stamp 358 and ends on
20 Bates stamp 375?

21 A. Yes.

22 Q. And (1), after, "Reason for Investigation," is, "I
23 have been given two unfair ratings in a row,"
24 correct?

25 A. Yes.

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1 Q. And then (2) and (3) specifically identify Faricy
2 as the bad actor, right?

3 A. Yes.

4 Q. Page 360. "Issue & Analysis." This is where you
5 get into the meat of your analysis, correct?

6 A. Yes.

7 Q. "Issue 1. Whether Abdullah received biased and/or
8 unfair ratings since joining Amazon?
9 Uncorroborated," correct?

10 A. Yes.

11 Q. Read to yourself that section and tell me where,
12 if anyplace, you identify that Joudrey supported a
13 higher rating for Haydar than an LE.

14 A. I see a reference to the Jim interview notes. Is
15 that what you're asking me, why I didn't explicitly
16 call out Jim's comment?

17 Q. I'm just asking you if you can find anyplace where
18 you -- in your Issue & Analysis of Section 1, where
19 you raise and grapple with the issue that Joudrey
20 wanted to give a higher rating than LE and Faricy
21 overruled him.

22 A. That's not in my analysis.

23 Q. Okay. In paragraph -- or Issue 2 or page 364,
24 "Whether Peter Faricy and/or his direct exhibit
25 bias in the promotion and/or reorg process?"

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1 That would not be a place where we would
2 expect Mr. Joudrey's comments about the LE rating
3 in the OLR to be discussed, fair?

4 A. It just depends.

5 Q. Okay.

6 A. Fair for this analysis.

7 Q. Okay. Is there anything -- anywhere in your
8 analysis of Issue 2 where you see your discussion
9 of Mr. Joudrey wanting to give Mr. Haydar a higher
10 rating?

11 A. Not that I see, no.

12 Q. Issue 3, "Whether Peter Faricy has made any
13 comments that illustrate bias against Abdullah?"

14 This section seems to be limited to
15 Haydar's notes about Faricy's comments in public,
16 correct?

17 A. Yes.

18 Q. So we wouldn't expect that analysis to include
19 Mr. Joudrey's comments about what rating to give
20 Mr. Haydar in that section, right?

21 A. Right.

22 Q. Issue 4. "Whether HR failed to respond or address
23 Abdullah's concerns?"

24 That's also not a place where we would
25 have expected you to discuss Mr. Joudrey's initial

Page 57

1 preliminary review of Mr. Haydar being higher than
2 an LE, correct?

3 A. Right.

4 Q. As you sit here today, can you explain why your
5 investigation analysis did not grapple with this
6 fact that you found?

7 A. As part of the OLR process, multiple leaders
8 weigh in on that discussion and it's rare, if ever,
9 everyone is on the same page, so I would -- it's
10 quite common for there to be disagreement, and Jim
11 was Abdullah's manager for a very short period of
12 time.

13 MR. NACHT: Page 366, Exhibit 1.

14 MR. WOLFF: I'm sorry, we're not
15 follow --

16 MR. NACHT: This is Exhibit 1.

17 MR. WOLFF: We are looking for Exhibit 1
18 to Exhibit 1. We're there.

19 BY MR. NACHT:

20 Q. Please read the first sentence of your
21 recommendation.

22 A. "In light of the investigative findings, I would
23 generally recommend proceeding with a performance
24 improvement plan for Abdullah."

25 Q. Did Ms. Cerio ask you to investigate whether a

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1 Performance Improvement Plan for Abdullah Haydar
2 was justified?

3 A. No.

4 Q. All right. Let's go back to that meeting that
5 we've not talked about, the very first meeting
6 where she gave you your commission. Tell me
7 everything you can remember about that meeting.

8 A. I recall sitting down with Shelly, Shelly showing
9 me the email she had received from Abdullah, I
10 believe the month before, and her asking me if I
11 had the bandwidth and felt comfortable taking over
12 the investigation.

13 Q. What else?

14 A. I don't remember anything else.

15 Q. What was it, in the course of your investigation of
16 Mr. Haydar's complaint to Ms. Cerio, that prompted
17 you to make a recommendation that Mr. Haydar be
18 subject to a Performance Improvement Plan?

19 A. It is normal for me to include a recommendation and
20 investigation report. This was included because
21 the business was considering it before any of this
22 got escalated, so --

23 Q. How did you know that? Let's start with that. How
24 did you know that?

25 A. I don't remember.

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1 Q. So Cerio didn't tell you that?

2 A. I don't remember how I found that out.

3 Q. She might have told you that?

4 A. I would just be speculating on who told me that.

5 I would -- I wouldn't guess her, but it's possible.

6 I would guess his HR VP.

7 Q. Who would that have been?

8 A. Kaitlin McVey.

9 Q. So McVey and you spoke separately from your
10 investigation notes of her?

11 A. We have spoken separate from the interview notes.

12 Q. During the course of the investigation of Abdullah
13 Haydar, you had separate conversations with
14 Ms. McVey about Mr. Haydar besides what's in the
15 interview notes?

16 A. As part of the typical interview process --

17 Q. Stop, stop. I'm not asking for the background or
18 the context.

19 A. I don't remember. I don't remember.

20 Q. Okay. Now you may continue.

21 A. I don't remember. Now you want -- you want me to
22 talk about my general interview process?

23 Q. Yes. I just wanted a clear answer of your
24 recollection of whether you had spoken to Kaitlin
25 McVey about Haydar during the investigation and

Page 60

1 now I'm happy to hear your discussion of your
2 process.

3 A. So generally when an escalation is raised, I will
4 reach out to the HR business partner to introduce
5 themselves and provide an appropriate amount of
6 information as far as what I will be doing.

7 Q. And do you ask that person's assessment of the
8 situation?

9 A. Not outside of the interview in this case.

10 Q. But how do you remember that if you don't remember
11 whether you spoke to her?

12 A. Because in an investigation, an HR business
13 partner is not always interviewed, it's not
14 always relevant, so in that case, I may have the
15 conversation with an HR business partner, which
16 isn't relevant in here.

17 Q. Just a minute ago you testified that you don't
18 remember whether you spoke to Ms. McVey separately
19 from the formal interview which you took notes.

20 Is it fair to say that since you don't
21 remember if such a conversation occurred, you can't
22 testify as to, if a conversation occurred, what was
23 said?

24 A. Oh, no.

25 Q. No what?

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1 A. I couldn't tell you what was said should a
2 conversation have even occurred.

3 Q. Okay. Thank you.

4 Do you think that an escalation over a
5 concern of a performance review itself can violate
6 the disagreeing leadership principle?

7 THE WITNESS: Can you repeat the
8 question, please?

9 (Whereupon the question was read
10 back by the court reporter.)

11 THE WITNESS: What do you mean by
12 escalation?

13 MR. NACHT: I'm using the Amazon term.
14 Does the term escalation have a meaning within
15 Amazon, to the best of your knowledge?

16 THE WITNESS: Definitely not a
17 universally accepted definition.

18 MR. NACHT: Okay. Raising the issue
19 above a particular person to another person higher
20 up.

21 MR. WOLFF: Does doing that to complain
22 about an evaluation violate disagreeing?

23 MR. NACHT: Yes.

24 THE WITNESS: I don't --

25 MR. NACHT: Let's take it one step at a

Page 62

1 time.

2 BY MR. NACHT:

3 Q. Ms. McVey was the HR person for Mr. Haydar at the
4 time of this investigation, correct?

5 A. Yes.

6 Q. Who was her boss, Madonna Cole?

7 A. I don't know.

8 Q. If I tell you it was Madonna Cole, does that sound
9 right to you?

10 A. No. I would guess Derek Oehler, but I don't
11 know.

12 Q. I believe Derek Oehler replaced Ms. McVey as the HR
13 person for --

14 A. I think she was reporting to him.

15 Q. You do? Okay.

16 Who was Oehler reporting to?

17 A. I believe Madonna.

18 Q. Madonna Cole?

19 A. Yes.

20 Q. Who was Cole reporting to?

21 A. I believe Shelly.

22 Q. Haydar complained to Cole and then he complained to
23 Cerio, correct?

24 A. Yes.

25 Q. When I use the term "escalation," I mean that, that

Page 63

1 he's going up the chain of command, he's escalating
2 his complaints to people with -- higher up in the
3 hierarchy. That's what I mean. Does that make
4 sense to you?

5 A. Yes.

6 Q. Okay. What's the term you would use?

7 A. I guess raise the complaint that warrants an
8 investigation.

9 Q. Okay. At Amazon, is it ever permissible to label
10 someone as violating the disagree and commit
11 leadership principle because they have escalated
12 their concerns about their own reviews?

13 MR. WOLFF: Objection. Foundation. You
14 can answer based on your understanding.

15 THE WITNESS: If I understand your
16 question, no, Abdullah should not have felt any
17 repercussion for raising a concern.

18 BY MR. NACHT:

19 Q. Do you believe that he should have been free from
20 retaliation under Amazon's policies for raising the
21 concerns that he raised in this investigation?

22 A. Yes.

23 Q. Were you sensitive to that when you performed the
24 investigation?

25 A. Yes.

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1 Q. If you were not Haydar's HR person and you were
2 called in simply to investigate his complaint --
3 those two things are both correct, right?

4 A. Yes.

5 Q. Why would you express an opinion about whether his
6 management and his HR people should put him on a
7 performance improvement plan?

8 MR. WOLFF: Objection. Asked and
9 answered. You can answer.

10 BY MR. NACHT:

11 Q. I understand you answered before that, "Well, I
12 believe that I knew that the business was planning
13 that performance improvement plan anyway," correct?

14 A. Yes.

15 Q. Right. So my question is, why is it within the
16 scope of your investigation about Haydar's
17 complaint to comment on anything involving proposed
18 managerial decision-making about Haydar other than
19 to find that you could not substantiate his
20 allegations?

21 A. It is a normal part of the process. As an
22 objective person stepping in, if I felt like we
23 weren't -- the PIP was not appropriate, for
24 example, perhaps there wasn't sufficient
25 progressive performance management up to that

Page 65

1 point, I would have similarly called that out as
2 well as an objective fact-finder.

3 Q. You did not talk to anyone who worked for Haydar,
4 correct?

5 A. Correct.

6 Q. You were limited in the 360 reviews you were able
7 to see, correct?

8 MR. WOLFF: Objection.

9 MR. NACHT: What's the objection?

10 MR. WOLFF: I think she said she might
11 have been. I'm not sure she said for sure, but
12 it's a perfectly appropriate question to ask her
13 again.

14 THE WITNESS: I reviewed all of the
15 feedback available in the system at the time.

16 BY MR. NACHT:

17 Q. I understand that you believe your investigation
18 was thorough enough to review particular complaints
19 made by Mr. Haydar. Let's put your belief about
20 that to the side. I understand it.

21 What makes you believe that your
22 investigation of Haydar's performance gave you
23 sufficient information for you to make a
24 recommendation that he be put on a Performance
25 Improvement Plan?

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1 A. The business was considering their Performance
2 Improvement Plan before I walked into the picture.
3 I walked into the picture and that's put on pause
4 during my process. I completed the investigation
5 and found legitimate reasons for the ratings and
6 performance management that Abdullah had received
7 to date.

8 Q. Are you familiar with the idea that there can be
9 abusive feedback in 360s, sort of outlier feedback?

10 A. I would need an example of what you mean by abusive
11 feedback.

12 Q. Well, have you ever looked at a situation where you
13 felt one person's feedback was sufficiently out of
14 line or personally driven that it shouldn't be
15 considered?

16 A. Yeah, yes.

17 Q. Did it occur to you that Mat Philipsen's feedback
18 about Abdullah Haydar might fall into that
19 category?

20 A. I do not recall.

21 Q. You did not review Abdullah Haydar's
22 self-evaluation to see where his actual goals --
23 performance was?

24 A. I'm sure I read his portion of the annual review,
25 if that's what you're asking me.

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1 Q. Based on your normal procedure or based on your
2 specific recollection?

3 A. Based on my normal procedure. If it's included
4 as an attachment, I have read every last word.

5 Q. Were you involved in drafting Haydar's Performance
6 Improvement Plan?

7 A. I recall after our draft was complete it being
8 emailed to me and asked if I have any thoughts.

9 Q. Do you believe that's appropriate?

10 A. Yeah, yes.

11 Q. Why?

12 A. Because I don't see why it's inappropriate.

13 Q. Do you remember that Mr. Mosby initiated a
14 performance improvement process in 2014 which was
15 not actually accepted by HR?

16 A. I recall learning that as part of the
17 investigation.

18 Q. How did that affect your assessment about Mosby's
19 perspective on Haydar?

20 A. I don't recall.

21 Q. What conclusions, if any, did you draw from
22 learning that fact?

23 A. That he needs to be more patient in the performance
24 management process.

25 Q. "He," meaning Mosby?

Page 68

1 A. Yes.

2 Q. Were you ever shown a document by Derek Oehler in
3 July 2015 that Haydar had exceeded his goals?

4 A. I don't remember.

5 Q. Would that have affected your decision about
6 whether he should be removed from a Performance
7 Improvement Plan?

8 A. I would have to see the document that you're
9 referring to.

10 Q. Did it ever occur to you that it would be good for
11 Haydar to work for other people, to transfer to a
12 different group?

13 A. Did that -- did it occur to me that it may be
14 beneficial for him to transfer?

15 Q. Yes.

16 A. It was definitely an option.

17 Q. You didn't do anything to block that, did you?

18 A. No.

19 Q. You knew that Haydar was interested in trying to
20 transfer because he shared that with you, right?

21 A. Yes.

22 Q. And you shared that information with people who
23 wanted him fired?

24 A. Well, I wouldn't jump to the conclusion that there
25 were people that wanted him fired, and I would

Page 69

1 recall asking more of a general question in
2 whether -- when I interviewed people -- in whether
3 they support a transfer.

4 MR. WOLFF: David, when you come to a
5 natural stop, a break. It doesn't need to be now.

6 MR. NACHT: Now's a good time.

7 (Whereupon a break was taken
8 from 1:43 p.m. to 1:49 p.m.)

9 MR. NACHT: Back on the record.

10 BY MR. NACHT:

11 Q. When I read your notes of Haydar interviewing
12 with you, I saw some comments which gave me the
13 impression that you found him tendentious or
14 repetitive or annoying. Do you have a recollection
15 of that?

16 A. I do.

17 Q. What's your recollection?

18 A. My recollection is Abdullah talked a lot and it was
19 challenging for me to ask questions.

20 Q. Is it fair to say that your own personal experience
21 in interviewing Abdullah lent credence, in your
22 mind, to the allegations about Abdullah's failure
23 to adhere to the leadership principles?

24 A. Well, you word that interesting in that there
25 were allegations against him with regard to the

Page 70

1 leadership principles. I would say people
2 expressed similar sentiments about him talking
3 over others in meetings and I'm sure my one-on-one
4 experience with him provided some level of me being
5 able to relate.

6 Q. And do you remember talking about that with Kaitlin
7 McVey, that you both found him trying and
8 difficult?

9 A. I do not remember.

10 Q. Okay. Have you ever, in the course of your career,
11 interviewed victims of sex harassment?

12 A. Yes.

13 Q. Or victims of really egregious race discrimination?

14 A. Yes.

15 Q. Is it fair to say that some victims of harassment
16 or discrimination are affected by the experience in
17 terms of how they come across?

18 A. Sure.

19 Q. What steps did you take to determine that Abdullah
20 Haydar wasn't being difficult because he's a
21 difficult guy, but he was being difficult with you,
22 that is, frustrated and talking over you, because
23 he was bursting with the stuff that victims of
24 discrimination sometimes burst with?

25 MR. WOLFF: Objection.

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1 THE WITNESS: Do you still want me to
2 answer?

3 MR. WOLFF: Oh, you can answer if you
4 understand the question.

5 MR. NACHT: Can you repeat the question,
6 please?

7 (Whereupon the question was read
8 back by the court reporter.)

9 THE WITNESS: I want to give -- and in
10 every complainant, including Abdullah -- the
11 opportunity to be heard and listened to. I
12 listened and heard him out at that point. If I'm
13 not answering the question, if you could rephrase
14 it, please.

15 BY MR. NACHT:

16 Q. Well, you've acknowledged that your discussion with
17 him affected your sense that he exhibited some of
18 the characteristics that other people talked about,
19 right?

20 A. Yes.

21 Q. So I'm asking, what steps, if any -- and it might
22 be none -- you took to sort of check yourself about
23 your reaction to him to say, "Well, wait a minute,
24 maybe he's just a very frustrated guy because he's
25 been complaining about discrimination, escalating

Page 72

1 it up different levels and no one is really
2 listening to him and taking him seriously and
3 that's what I'm hearing, I'm hearing the
4 frustration of discrimination," as compared to --

5 A. The investigation -- the investigation could have
6 gone in that direction. That could have been
7 proven. He can -- as most complainants to a
8 certain level really -- and I can't recall anyone
9 that I have ever hung up on or cut off. They can
10 talk over me as much as they want, they can be as
11 frustrated as they want, they can cry, we can meet
12 as many times as they want.

13 Q. But I'm not talking about you being a listener that
14 makes a complainant feel good, I'm talking about
15 you being an adjudicator, a determiner as to
16 whether the complaint has validity. And so if your
17 assessment is influenced by a particular style, are
18 there any steps that you can remember taking to
19 slow yourself down in having that reaction? I
20 mean, you wrote in your interview notes with him,
21 you wrote -- what did you write? "He droned on;
22 he's repetitive." What did you write in here?
23 Those kinds of things, right?

24 A. Yes.

25 Q. Right. So your frustration is palpable, it's in

Page 73

1 your report, it's in your interview notes, and so
2 my question is --

3 A. Yes.

4 Q. -- what steps, if any, did you take as a
5 professional investigator who was ultimately going
6 to make an adjudication, a decision, to ensure that
7 you were not unfairly evaluating a victim of
8 discrimination who is having an emotional reaction
9 to the discrimination? That's my question.

10 A. Multiple investigatory measures were taken over
11 the course of almost three weeks after that
12 interview.

13 Q. Name one that responds to that particular point.

14 A. Reviewing 360 feedback, reviewing annual reviews,
15 conducting a multitude of investigatory interviews.

16 Q. If you wanted to conduct a truly fair investigation
17 and give him a chance of being successful, along
18 with a couple others that you found substantiated
19 in 2016 and 2017 out of the 100 you've done, if he
20 was going to have a shot of making it into that
21 group, why didn't you talk to the people who worked
22 for him?

23 A. I did not see that having any bearing on the
24 concerns that he raised.

25 Q. Why didn't you grapple with in your analysis -- I

Page 74

1 mean, maybe reject it, but at least grapple with
2 the data you found that Joudrey, the manager in the
3 2014 OLR with Peter, wanted to give him a higher
4 review?

5 A. That was obviously not hidden from the
6 investigation and it's clearly attached in an
7 exhibit. Why it wasn't included in the analysis,
8 I'm sure it was considered, but I could only
9 speculate what I was thinking.

10 Q. I would like you to go to Exhibit 1, page 365,
11 Issue 3. I would like you to read the last
12 sentence of your analysis of Issue 3.

13 A. "Accordingly, while Peter's comment was not
14 tasteful, the investigation failed to show that
15 there was any discriminatory animus in such
16 comments. There is no evidence of Abdullah being
17 subjected to any comments, decisions, treatment
18 and/or actions that would be in violation of any
19 Amazon policy."

20 Q. Now you have admitted that you asked no questions
21 about national origin or religious discrimination,
22 correct?

23 A. Yes.

24 Q. And you have admitted that it didn't even occur to
25 you that Mr. Faricy's comments about my client, a

Page 75

1 Syrian national origin, Muslim American man, about
2 his -- the way he treats his wife, that it didn't
3 even occur to you that that was made in violation
4 of national origin or religious discrimination,
5 right? Didn't you testify it didn't even occur to
6 you?

7 A. National origin and race discrimination --

8 Q. I'm sorry, national origin or religious
9 discrimination. It never even occurred to you,
10 right, that these comments were made in that vein?

11 A. Abdullah never raised those issues.

12 Q. I know that. Did it occur to you?

13 A. As part of an investigation, of course
14 discrimination would occur to someone like me with
15 my background, and honestly, if someone raised
16 these comments, what would go on in my head is
17 familial status concerns.

18 Q. Okay. And you felt comfortable concluding that
19 there was no discriminatory animus in Mr. Faricy's
20 comment, right, because you write that in your
21 report?

22 A. Yes, yes.

23 Q. When you wrote that the investigation failed to
24 show that there was any discriminatory animus,
25 the investigation did not look for discriminatory

Page 76

1 animus, right? Isn't that your testimony?

2 A. The investigation asked people, witnesses, about
3 the context in which those statements were made.

4 Q. But I'm not interested in context or explanation,
5 I'm interested in yes and no questions right now
6 and then I'll give you a chance to explain.

7 Earlier you testified, "Cerio showed me
8 Haydar's email. The email doesn't raise religion,
9 doesn't raise national origin. All I'm doing is
10 investigating what his email says," basically,
11 isn't that what you said today under oath?

12 A. The investigation looked into the concerns that he
13 raised.

14 Q. Right. Now ultimately the investigation went
15 beyond that to make recommendations that he go on
16 a Performance Improvement Plan, right?

17 A. Yes.

18 Q. And in between we have the analysis of the findings
19 and in the analysis you make the summary statement
20 that there is no discriminatory animus in the
21 comment, or rather the investigation failed to show
22 that there's a discriminatory animus in the
23 comment, but I understood you earlier to be
24 testifying, "I wasn't looking for discriminatory
25 animus because he didn't complain about it." So

Page 77

1 were you looking for it or weren't you looking for
2 it?

3 A. I'm sure in asking people about the context of
4 Peter allegedly making these comments --

5 MR. NACHT: I'm sorry, could I have a yes
6 or no to the question under oath? And then you can
7 provide an explanation.

8 Could you please give the witness the
9 question?

10 And please consider your answer
11 carefully.

12 (Whereupon the question was read
13 back by the court reporter.)

14 MR. WOLFF: Objection. If you can answer
15 it yes or no, do it.

16 MR. NACHT: The question calls for
17 answering it whether you were looking for it or you
18 weren't looking for it.

19 THE WITNESS: Of course I'm always keen
20 to that being a potential possibility regardless of
21 the concerns raised by a complainant.

22 BY MR. NACHT:

23 Q. And that was true in this case?

24 A. I am -- that is always on my radar.

25 Q. But in this particular case, did it occur to you --

Page 78

1 A. I --

2 Q. Hang on.

3 A. I obviously had a sentiment.

4 Q. Did you have a sentiment that the allegation about
5 Faricy's comment was potentially unlawful
6 discriminatory animus?

7 A. No.

8 Q. If you didn't -- if it didn't occur to you that you
9 had such a sentiment, why did you feel the need to
10 deny it in this report?

11 A. Because I deal with a multitude of complainants and
12 oftentimes they'll throw out explanations of this
13 that causes me to think about, I don't want anyone
14 being treated differently on the basis of familial
15 status, for example, that it would be considered in
16 the context in which it was made, whether it's been
17 made to anyone else. People can make comments all
18 the time that are not tasteful; that doesn't mean
19 they're discriminatory.

20 Q. Did you pull this language from some other report?
21 Is that why it's in there?

22 A. No, but I have written hundreds of reports, so I'm
23 sure that I could identify a report that I've
24 written there's -- a language.

25 Q. Okay. Do you -- as you sit here today, and

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1 obviously your recollection is going to be affected
2 by the course of the deposition because I'm
3 challenging you, right, and you're looking at your
4 document and you're thinking about stuff, and so I
5 just want your best recollection.

6 Did it ever occur to you when you --
7 during the course of a couple weeks you did this
8 investigation, that there was an allegation here of
9 either national origin or religious discrimination?

10 A. No.

11 Q. But it did occur to you that there was a violation
12 of family status or marital status?

13 A. No, there was not an allegation of any of those
14 three potentially protected statuses.

15 Q. That's not my question as to whether you believed
16 Mr. Haydar was making the allegation. My
17 question -- was that my question?

18 A. I thought your question was about the allegations.

19 Q. My question is about what was in your head when you
20 did the investigation. I apologize if I misspoke.
21 Let me try it again.

22 A. I don't remember what was in my head. I can just
23 comment generally how I approach concerns raised in
24 investigations.

25 Q. So you've commented that you're always attuned to

Page 80

1 unlawful discriminatory animus, fair?

2 A. Fair.

3 Q. And you commented that that was not the purpose of
4 this investigation, fair?

5 A. Fair.

6 Q. But that you were keeping your eye out for it, as
7 you always do, right?

8 A. Yes.

9 Q. And the thing which came closest to that issue in
10 your mind were Faricy's comments and that's why you
11 directly addressed it in Issue 3?

12 A. I don't remember why I specifically decided to
13 write that in Issue 3.

14 Q. Okay. Do you believe you did a good thorough job?

15 A. I did.

16 Q. Do you think you were fair to Abdullah Haydar?

17 A. I do.

18 Q. When you said you were strategic in conducting your
19 investigation, you certainly didn't mean to suggest
20 that you were strategic in slanting the outcome of
21 the investigation, right?

22 A. Definitely not.

23 Q. Okay. And one way to be fair and thorough is to
24 grapple with the strongest points raised by someone
25 on the opposite side, right, of the position you're

Page 81

1 coming down, right?

2 MR. WOLFF: Calls for speculation.

3 MR. NACHT: No, no, no.

4 BY MR. NACHT:

5 Q. You've done over 100 investigations at Amazon,
6 you've done many, many others in HR, you're a law
7 school graduate. You agree that to conduct a fair
8 and thorough investigation, you should grapple with
9 the strongest piece of evidence to the contrary of
10 the direction where your analysis is leading,
11 right?

12 MR. WOLFF: Objection.

13 MR. NACHT: What's the objection, Rob?

14 MR. WOLFF: I think it's hard to
15 generalize among all the investigations she's done.
16 I think your terms are ill-advised. If she can
17 talk about a general pattern of practice, that's
18 fine, I just think it's not providing her quite
19 enough substance to answer your question, but maybe
20 I'm wrong.

21 MR. NACHT: Let's limit it.

22 BY MR. NACHT:

23 Q. When you do your investigations at Amazon, you try
24 to grapple with the strongest piece of evidence --
25 if you're leaning towards the respondent, you

Page 82

1 grapple with the strongest piece of evidence that
2 the complainant brings to the table before you go
3 for the respondent, right?

4 A. In talking about evidence, assuming it's
5 relevant -- and it depends on the claims; it's all
6 case specific -- yes, I want to -- I want to
7 evaluate every piece of relevant evidence.

8 Q. Okay. Let's look at Exhibit 2. So after Abdullah
9 got the report of your investigation, he complained
10 about it, right, to Shelly Cerio?

11 A. I would be surprised if he got a copy of the report
12 at that time.

13 Q. Okay. So he just knew it was rejected, he
14 discussed the outcome with Shelly and he knew it
15 was rejected?

16 A. I don't know what happened during his conversation
17 with Shelly.

18 Q. Well, take a look at what you wrote in the first
19 paragraph under, "Reason for Investigation -
20 Addendum," on Bates stamp 666.

21 A. Okay.

22 Q. And what does that tell you?

23 A. An initial investigation report was written; Shelly
24 had a conversation with Abdullah thereafter.

25 Q. Now your initial investigation report is Exhibit 1,

Page 83

1 dated April 15, 2015, correct?

2 A. Yes.

3 Q. And this is Exhibit 2, dated April 27, 2015,
4 correct?

5 A. Yes.

6 Q. And you wrote this addendum, which consists of
7 Bates stamp 666 through 675, correct?

8 A. Yes.

9 Q. And that's Exhibit 2, right?

10 A. Yes, yes.

11 Q. And even though you don't follow at Amazon the
12 practice of the fair employment practices, you're
13 not like the EEOC and the state agencies where you
14 give some points to the respondent to reject -- to
15 the complainant to reject before your report is
16 issued, in this case, Shelly Cerio shared the gist
17 of the report with Abdullah Haydar and he was able
18 to raise some points in rebuttal and you then
19 grappled with his points, right?

20 A. Yes.

21 Q. Okay. So Issue 5. What's the point that he's
22 grappling with? Could you read it out loud,
23 please?

24 A. "There was a mutually understood clear record of my
25 performance throughout the entire past year with

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1 expectation setting and ongoing performance
2 evaluation by my management chain as exceeding
3 expectations and being solid in my leadership
4 principles. I'm not exaggerating when I say that
5 I have been told by all sources that I have
6 exemplified Amazon's leadership principles by
7 delivering strongly on a continuous basis."

8 Q. And you found that uncorroborated, right?

9 A. Yes.

10 Q. Page 667?

11 A. Yes.

12 Q. Why did you not grapple with -- lost you.

13 (Discussion off the record.)

14 BY MR. NACHT:

15 Q. Why did you not include Mr. Haydar -- in addressing
16 Mr. Haydar's concerns, why did you not include
17 Mr. Joudrey's comments that he was going to give
18 Mr. Haydar a higher review going into the final
19 OLR, Peter's OLR, maybe not technically the final,
20 but Peter's OLR in 2014?

21 A. I don't remember.

22 Q. Well, your notes from the Joudrey interview show
23 that Joudrey said that Joudrey and Saxena had
24 gone into that OLR with Abdullah getting a higher
25 review, right, exceeding expectations and solid in

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1 his leadership principles?

2 A. Abdullah was alleging that he had no idea he was
3 underperforming and he had only been told he was
4 exceeding, so the analysis included examples where
5 he had been informed otherwise.

6 Q. But why just provide contrary examples that
7 supported your prior position, why not directly
8 grapple with his best evidence that you
9 uncovered -- he was not aware of it -- but evidence
10 you uncovered that supported his position?

11 MR. WOLFF: Objection.

12 MR. NACHT: What's the objection, Rob?

13 MR. WOLFF: You can answer. Asked and
14 answered and I think you're mischaracterizing.

15 MR. NACHT: Well, not with regard to
16 Issue 5. This is a different exhibit. It's --
17 you wrote a different document a few weeks later
18 and I'm asking why you didn't include it here.
19 It seems directly relevant to this point, doesn't
20 it?

21 THE WITNESS: The allegation was that
22 he had never been informed that he was
23 underperforming or deficient in the leadership
24 principles, and I pointed out in my analysis that
25 he had been informed of such. Of course, Jim's

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1 interview was attached.

2 BY MR. NACHT:

3 Q. So you have no explanation for why you didn't
4 include it in this particular section, correct?

5 A. Correct.

6 MR. NACHT: Okay.

7 MR. WOLFF: Hey, David, to catch my
8 current flight, I need to leave for the airport
9 about quarter of two Denver time, so quarter to
10 four. Are you going to be done in a little over
11 an hour, do you think, or should I change flights?

12 MR. NACHT: I think -- we've got McVey at
13 3:00 our time, 1:00 your time, right?

14 MR. WOLFF: Yeah.

15 MR. NACHT: I see no reason to alter that
16 schedule.

17 MR. WOLFF: Thank you. I just wanted to
18 make sure. Thank you.

19 MR. NACHT: Thank you for checking.

20 I'm done.

21 MR. WOLFF: We would like to review.

22 David, thank you.

23

24 (Deposition concluded at 2:23 p.m.)

25

ABDULLAH HAYDAR vs AMAZON CORPORATE
DECLEENE, ANNE 11/14/2017

Job 5396
87

1 STATE OF MICHIGAN)

2 COUNTY OF OAKLAND)

4 Certificate of Notary Public

5 I do hereby certify the witness, whose attached
6 testimony was taken in the above matter, was first duly
7 sworn to tell the truth; the testimony contained herein
8 was reduced to writing in the presence of the witness, by
9 means of stenography; afterwards transcribed; and is a
10 true and complete transcript of the testimony given. I
11 further certify that I am not connected by blood or
12 marriage with any of the parties, their attorneys or
13 agents, and that I am not interested directly, indirectly
14 or financially in the matter of controversy.

15 In witness whereof, I have hereunto set my hand
16 this day at Royal Oak, Michigan, State of Michigan.

17 I hereby set my hand this day, November 14, 2017.

18
19
20 *Karen Fortna*
21

22 Karen Fortna, CRR/RMR/RPR/CSR-5067

23 Notary Public, Oakland County, Michigan

24 My Commission expires 4/30/2019
25

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DEPOSITION ERRATA SHEET

Our Assignment No.: 5396
Case Caption: Haydar v Amazon

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read the entire transcript of my deposition taken in the captioned matter or the same has been read to me, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.

Signed on the 10th day of December, 2017.



ANNE DECLEENE

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DEPOSITION ERRATA SHEET

1

2

3 Reason for change: _____

4 Page No. 14 Line No. 16 Change to: Replace "management"
5 with "notice"6 Reason for change: Incorrect word.7 Page No. 15 Line No. 24 Change to: Replace "Katherine
8 Mark (ph)" with "Mark Wenrick"9 Reason for change: Incorrect name.10 Page No. 41 Line No. 16 Change to: Replace "would pass an"
11 with "whatever is pertinent to that"12 Reason for change: Incorrect phrase transcribed.13 Page No. 58 Line No. 19 Change to: Replace "and" with
14 "in an"15 Reason for change: Incorrect phrase transcribed.16 Page No. 59 Line No. 6 Change to: Replace "HR VP"
17 with "HRBP"18 Reason for change: Typographical error.

19 Page No. _____ Line No. _____ Change to: _____

20 _____

21 Reason for change: _____

22

23 SIGNATURE:  DATE: 12/10/2017

24 ANNE DECLEENE

25